

of action to take is the one that it suggested at the hearing. Specifically, that the Court will dismiss VLSI's claims of indirect infringement *without prejudice* to the refiling of these claims after discovery has been conducted. The Court intends to be very liberal in the discovery that it will allow VLSI to conduct. For example, VLSI may do discovery into its belief that Intel has been provided with notice of unasserted NXP patents, and the reasons for Intel's failure to ascertain information about the patents asserted in this litigation. If after VLSI has taken discovery it decides to amend its complaint to make allegations of indirect infringement, it will be free to do so, subject to the provisions of Rule 11. Intel can then file a motion for summary judgment with respect to that issue if it wishes to do so.

The same holding applies to the issue of enhanced damages based on willful infringement. The Court will dismiss VLSI's claims for enhanced damages based on willful infringement *without prejudice* to the refiling of these claims after discovery has been conducted. As stated before, the Court intends to be very liberal in the discovery that it will allow VLSI to conduct. After VLSI has taken discovery, it may decide to amend its complaint to include enhanced damages based on willful infringement. Intel may also file a motion for summary judgment with respect to this issue if it wishes to do so. With respect to Intel's argument that VLSI's claims of direct infringement should be dismissed, the Court finds that Intel's argument is without merit; therefore, it will deny Intel's Motion with respect to VLSI's claims of direct infringement.

Because of the reasons stated above, the Court finds that Intel Corporation's Motion to Dismiss Claims for Direct and Indirect Infringement and Enhanced Damages Based on Willful Infringement Under Federal Rule of Civil Procedure 12(b)(6) should be **DENIED IN PART** and **GRANTED IN PART**. It is therefore **ORDERED** that VLSI's claims for indirect infringement

and enhanced damages based on willful infringement are **DISMISSED WITHOUT PREJUDICE**. Any relief not specifically granted in this Order is **DENIED**.

SIGNED this 6th day of August 2019.

A handwritten signature in black ink, appearing to read "Alan D. Albright", is written over a horizontal line.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE